

## EXHIBIT D

# Verrill Dana<sup>LLP</sup>

Attorneys at Law

THOMAS O. BEAN  
tbean@verrilldana.com  
Direct: 617-309-2606

ONE BOSTON PLACE  
SUITE 1600  
BOSTON, MASSACHUSETTS 02108-4427  
617-309-2600 • FAX 617-309-2601  
www.verrilldana.com

February 18, 2016

**Via Hand Delivery**

Daniel N. Marx, Esq.  
FOLEY HOAG LLP  
155 Seaport Boulevard  
Boston, MA 02210

Re: Steward Health Care System LLC v. Southcoast Health System, Inc.  
USDC Case No. 1:15-cv-14188

Dear Dan:

Enclosed please find the following documents:

1. Defendant Southcoast Health System, Inc.'s Initial Disclosures; and
2. Notice of Deposition of John Polanowicz

I understand that, notwithstanding my request for a Rule 26(f) conference, your proposal of a time and date for one, and our having had a telephone call on February 10, 2016, of approximately thirty minutes with four lawyers on the phone during which we discussed issues identified in Rule 26(f) issues, you have taken the position subsequent to the call that we did not have a Rule 26(f) conference. In consideration of that position, we have not scheduled Mr. Polanowicz's deposition until March 1, 2016, to give you a reasonable period of time in which to seek a protective order. Absent your obtaining a protective order, we intend to proceed with the deposition on that date.

Should you have any questions with respect to this matter, please do not hesitate to contact me.

Very truly yours,



Thomas O. Bean

TOB:sk  
Enclosures

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STEWARD HEALTH CARE SYSTEM LLC,

Plaintiff,

v.

SOUTHCOAST HEALTH SYSTEM, INC.,

Defendant.

CIVIL ACTION NO. 1:15-cv-14188

**DEFENDANT SOUTHCOAST HEALTH SYSTEM, INC.'S  
INITIAL DISCLOSURES**

In accordance with Fed. R. Civ. P. 26(a) and Local Rule 26.2(a), Defendant, Southcoast Health System, Inc. ("Southcoast"), hereby provides its initial disclosures. These disclosures are based on information now readily available to Southcoast. Southcoast reserves the right to supplement these initial disclosures as additional information becomes available to it.

**1. Names, addresses and telephone numbers of individuals likely to have discoverable information, along with the subject of that information, unless the use would be solely for impeachment.**

1. Keith Hovan  
c/o Verrill Dana LLP  
One Boston Pl.  
Boston, MA 02108

General familiarity with DPH process for adopting ACO Exception Circular, impact on Southcoast's cath lab, its volume, and capacity.

2. Linda Bodenmann  
c/o Verrill Dana LLP

Same as above, but closer to the data due to role in reviewing it. Served as spokesperson for Southcoast on proposed introduction of cath lab at St. Anne's.

3. Margaret Ferrell, M.D.  
c/o Verrill Dana LLP

Physician in Chief for Cardiovascular Services and Interventional Cardiology. Familiar with limitations of diagnosis-only cath lab.

4

. David Sarna  
c/o Verrill Dana LLP

Oversees collection and maintenance of volume and quality data for interventional cardiology and reports that data to the state; maintains volume quality data for cardiac surgery as well.

5. Howard Hawkins  
c/o Verrill Dana LLP

Southcoast's liaison with DPH. Met with DPH staff and attended meetings on proposed adoption of ACO Exception Circular.

6. Dave Teixeira  
c/o Verrill Dana LLP

Director, Interventional Cardiology Service Line; helps analyze volume data, capacity, etc. Reports to Dr. Ferrell.

7. Melissa Rose  
c/o Verrill Dana LLP

Familiar with payer contract negotiations and Southcoast's pricing of services.

8. Kevin Dwyer  
c/o Verrill Dana LLP

Responsible for patient accounting.

9. Steve Canessa  
c/o Verrill Dana LLP

Oversees Southcoast's communications.

9. Andrew Levine  
Donahue Barrett & Singal  
One Beacon Street  
Suite 1320  
Boston, MA 02108-3106

Knowledge of Steward's role in applying for a DoN and in the promulgation of the ACO Exception Circular.

In addition to the foregoing, Southcoast understands, based on documents produced by DPH in response to a public records request, that certain current and former DPH and EOHHS employees have knowledge concerning Steward St. Anne's application for a DoN and/or the adoption of the ACO Exception Circular. Southcoast is unaware of the specific knowledge of each individual. These current and former EOHHS and DPH employees include the following:

John Polanowicz, former Sec'y of EOHHS

Jill Judd, then Exec. Ass't at EOHHS

Cheryl Bartlett, former Comm'r of DPH

Madeleine Biondolillo, then Assoc. Comm'r  
of DPH.

Ann Hwang

Bernard Plovnick

Nancy Murphy

Deborah Allwes

Kathy Svizzero

Lauren Nelson

Cathy O'Connor

Jennifer Barelle

Gail Palmeri

Eileen Sullivan – then Chief of Staff of DPH

2. **A description of the categories and locations of all documents, electronically stored information, and tangible things that Southcoast has in its possession, custody, or control that it may use to support its claims or defenses, unless the use would be solely for impeachment.**

The following categories of documents are at one or more of Southcoast's hospital campuses in Wareham, Fall River, or New Bedford, and/or its "back office" in Fairhaven, Massachusetts.

- A. Documents concerning Keith Hovan's "Guest Opinion" published in the *Herald News*.
- B. Documents concerning the impact on Southcoast of Steward's opening a cardiac catheterization unit at St. Anne's.
- C. Documents concerning the Moratorium Circular and the ACO Exception Circular.

D. Documents concerning Steward's application for a DoN (Determination of Need) at St. Anne's.

E. Documents concerning Southcoast's delivery of cardiac catheterization services at its Charlton Memorial and St. Luke's Hospitals.

F. Documents concerning Linda Bodenmann's response to a request for comments published in the *Boston Globe*.

3. **Computation of Damages**

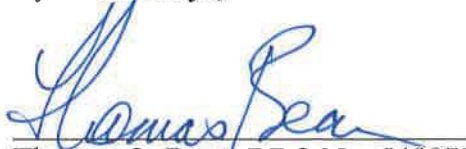
Southcoast is unaware of any damages having been suffered by Steward.

4. **Insurance Agreements**

Southcoast will make available for inspection and copying under Rule 34 an insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

SOUTHCOAST HEALTH SYSTEM, INC.

By its attorneys,



Thomas O. Bean, BBO No. 548072

John W. VanLonkhuyzen, BBO No. 545278

Rachel Wertheimer, BBO No. 625039

Jeffrey L. Heidt, BBO No. 228960

VERRILL DANA, LLP

One Boston Place, Suite 1600

Boston, Massachusetts 02108

(617) 309-2600

[tbean@verrilldana.com](mailto:tbean@verrilldana.com)

[jvanlonkhuyzen@verrilldana.com](mailto:jvanlonkhuyzen@verrilldana.com)

[rwertheimer@verrilldana.com](mailto:rwertheimer@verrilldana.com)

[jheidt@verrilldana.com](mailto:jheidt@verrilldana.com)

February 18, 2016

**CERTIFICATE OF SERVICE**

I, Thomas O. Bean, hereby certify that on February 18, 2016, I caused the foregoing document to be served by hand on Daniel N. Marx, Esq., FOLEY HOAG LLP, 155 Seaport Boulevard, Boston, MA 02210.

  
\_\_\_\_\_  
Thomas O. Bean

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

STEWARD HEALTH CARE SYSTEM LLC,

Plaintiff,

v.

SOUTHCOAST HEALTH SYSTEM, INC.,

Defendant.

CIVIL ACTION NO. 1:15-cv-14188

**NOTICE OF DEPOSITION OF JOHN POLANOWICZ**

TO: John Polanowicz  
c/o Daniel N. Marx, Esq.  
FOLEY HOAG LLP  
155 Seaport Boulevard  
Boston, MA 02210

PLEASE TAKE NOTICE that on March 1, 2016, at 9:30 a.m., at the office of Verrill Dana, LLP, One Boston Place, Suite 1600, Boston, Massachusetts 02108-4407, pursuant to Rules 26 and 30(a) of the Federal Rules of Civil Procedure, defendant Southcoast Health System, Inc., by its attorneys, will take the deposition upon oral examination of John Polanowicz in the above-captioned action. The deposition will occur before a Notary Public in and for the Commonwealth of Massachusetts, or before some other officer authorized by law to administer oaths.

The deponent is asked to bring an official government-issued identification to the aforementioned deposition.

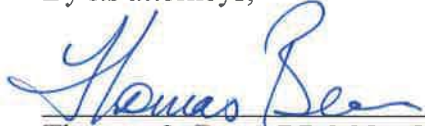


Said oral examination will continue from day-to-day until completed. You are invited to attend and to cross-examine.

SOUTHCOAST HOSPITALS GROUP, INC.,

By its attorneys,

Dated: February 18, 2016



Thomas O. Bean, BBO No. 548072  
Rachel Wertheimer, BBO No. 625039  
Jeffrey L. Heidt, BBO No. 228960  
VERRILL DANA, LLP  
One Boston Place, Suite 1600  
Boston, Massachusetts 02108  
(617) 309-2600  
[tbean@verrilldana.com](mailto:tbean@verrilldana.com)  
[rwertheimer@verrilldana.com](mailto:rwertheimer@verrilldana.com)  
[jheidt@verrilldana.com](mailto:jheidt@verrilldana.com)

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Thomas O. Bean